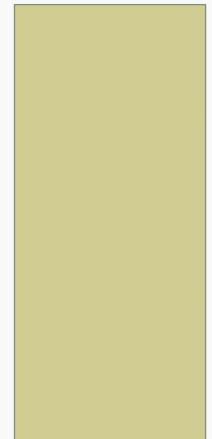


COUNCIL ITEM OF INTEREST

TOHONO O'ODHAM PROPOSED CASINO



INTRODUCTION

- Public Comment
 - The Council does not invite public comment.
 - Balance.
- Executive Session language included to allow for legal advice.
- Decorum
 - The will of the majority while respecting the minority.
 - Local decision with national implications.

COUNCIL ITEM OF INTEREST

- Update and seeking guidance from Council regarding property located at approximately 91st and Northern Avenues and the Tohono O'odham Nation application for transfer of the land into trust for the benefit of the Tohono O'odham Nation.

“within the corporate limits of any city or town”

PREVIOUS COUNCIL ACTION

- On April 7, 2009, the City Council adopted Resolution 4246 authorizing the City Attorney to take all reasonable, necessary and prudent actions to oppose the Tohono O'odham plan to create a reservation within Glendale for the purposes of gaming.
- On June 3, 2009 the City of Glendale published an Initial Statement of Legal Position.
- On June 23, 2009, the City Council adopted Ordinance 2688, an annexation of the land at issue into the City of Glendale.

LITIGATION STATUS

GLENDALE v. SALAZAR

Court: Federal District Court (AZ)

Case No. CV10-01993 PHX-DGC; CV10-2017 PHX DKD; DV10-2138 PHX MHB

Glendale is challenging the Department of the Interior's decision to take into trust one of the Tohono's fee parcels located on a county island within city limits. Case dismissed by District Court and remanded to Interior for further proceedings consistent with 9th Cir. Order.

TOHONO O'ODHAM NATION v. GLENDALE AND ARIZONA

Arizona Federal District Court – D.C. No. 2:11-CV-00279-DGC

Ninth Circuit Court of Appeals – No. 11-16823

Arises from the Arizona legislature's 2011 enactment of H.B. 2534. The District Court believed that the state legislature enacted the law for the purpose of obstructing the Tohono's trust acquisitions in Glendale, and found that such an obstructive statute was preempted by the Gila Bend Act. Both sides appealed. The Ninth Circuit heard argument in February, and has not yet issued a decision. Just as most district court decisions are affirmed, it is likely this one also will be affirmed.

Upon result from other Glendale v. Salazar decision, the Court decided wiser course was to stay until the outcome of the Department of Interior Decision. Glendale must file a status report after Interior makes a decision on taking the land into trust. It is also possible that the issue regarding HB 2534 will be moot (if enacted into law).

LEGISLATION (STATE)

2010 - 49th Legislature, 2nd Regular Session

- HB 2297 CITY OR TOWN ANNEXATION
- SB 1109 GLENDALE ANNEXATION
- SB 1415 CITY OR TOWN ANNEXATION

2011 - 50th Legislature, 1st Regular Session

- HB 2534/ SB 1136 (Chapter 2, Laws 2011) CITY OR TOWN ANNEXATION
- HR 2001/ SR 1001 OPPOSITION; GAMING; NEW INDIAN RESERVATION
- SCR 1007 NEW INDIAN RESERVATION; GAMING; OPPOSITION

2012 – 50th Legislature, 2nd Regular Session

- HB 2381 CITIES; ANNEXATION; REPEAL

No Legislation is pending.

LEGISLATION (FEDERAL)

H.R. 2938 GILA BEND INDIAN RESERVATION LANDS REPLACEMENT CLARIFICATION ACT.

Introduced by Congressman Franks, H.R. 2938 amends the Gila Bend Indian Reservation Lands Act to prohibit gaming activities on lands that the Tohono O'odham Nation was authorized to purchase in Arizona in exchange for granting the federal government all right, title, and interest to the Gila Bend Indian Reservation.

H.R. 2938 was passed by the House on June 19, 2012 but was **never passed by the Senate.**

H.R. 1410 KEEP THE PROMISE ACT OF 2013.

Introduced April 9, 2013 by Congressman Trent Franks. H.R. 1410 would prohibit gaming activities on lands in the Phoenix, Arizona, metropolitan area that have been taken into trust for the Tohono O'odham Nation after April 9, 2013.

On September 17, 2013 it passed the House of Representatives. The bill has moved to the Senate, where it was read twice and referred to the Indian Affairs Committee. As of today, the government shutdown effectively has shut down other Congressional business.

DEPT. OF INTERIOR

The Ninth Circuit declared the Gila Bend Act's "corporate limits" restriction ambiguous and remanded the case to enable the Secretary to consider the question afresh in light of this ambiguity.

Any immediate action unlikely in light of the government shutdown.

SUMMARY

- Matter is before Department of Interior.
 - No active litigation.
 - No State legislation under consideration.
 - Federal legislation currently in the Senate.
-
- Next steps

CONSIDERATIONS

- Decision making is a step by step process.
- 5 years of effort.
 - Council Direction.
 - Relationships.
 - Work product.
- Analytics versus headlines.
 - Fully informed.

CONSIDERATIONS

- Patience.
- How to Communicate.
 - Dialogue/confer/negotiate.
- Analytics, Externalities, etc. (Relevant data from Tohono O'odham project and Glendale's plan).
- How to cooperate.
 - How does the proposal fit into our plan.
- Relationships.

DISCUSSION